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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of

Federal-State Joint Board on
Universal Service

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CC Docket No. 96-45 /

Comments of Townes Telecommunications, Inc.

Townes Telecommunications, Inc. (Townes), by its attorneys, hereby submits comments on the Recommended Decision of the Federal-State Joint Board on Universal Service, in which the Joint Board recommends the Rural Task Force (RTF) Recommendation as a good foundation for implementing a rural universal service support plan. Townes has a number of rural local exchange operating company subsidiaries in Arkansas, Missouri, Kansas, Florida, Texas, and Colorado. Accordingly, Townes has a substantial interest in the Federal-State Joint Board Recommendation and the RTF recommendation.

As indicated by the Joint Board and the Commission, the RTF recommendation is a compromise approach to implementing a rural universal service support plan that was developed through the conscientious participation of many different stake holders in this matter. Townes agrees that it is a good starting point for a rural universal service support plan. In particular, Townes agrees that support should be based on the embedded costs of rural carriers. Townes,

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however, would like to bring a few issues to the attention of the Commission that should be resolved and/or clarified.

I. The Proposal to Freeze Per Line High Cost Loop Support Should be Modified

Townes is primarily concerned with the RTF recommendation that a carrier's per line high cost loop support be frozen once a competitive carrier obtains eligible telecommunications carrier (ETC) status and provides service to at least one customer. If high cost loop support is frozen in this manner, small rural carriers may not have sufficient resources to upgrade their facilities as necessary to provide services comparable to those provided in non-rural areas and at comparable rates, as required by the Communications Act.

Unlike larger carriers that are continuously upgrading their exchanges on a rotating basis, many smaller carriers do not have a continuous investment program. Rather, small carriers are more likely to have a "cyclical" investment pattern and upgrade the major portion of their network on a periodic basis, such as once every fifteen (15) years.¹ This investment pattern is the most efficient for many small carriers because it allows them to take advantage of engineering and construction economies of scale in upgrading their entire plant all at once, rather than just small portions annually. It also allows small carriers to make more efficient personnel decisions and avoid the cost of personnel who are needed only for upgrade purposes.

An incumbent local exchange carrier (ILEC) whose high cost support includes the financial impact of a recently completed upgrade program may be able to manage under an

¹ The composite depreciation rate of the average small ILEC is approximately 6-7%, which implies a composite plant life of approximately 15 years.

annually adjusted frozen per line support amount for some time after a competitive ETC (CETC) captures its first customer . However, a carrier with a “ cyclical ” investment pattern that completed its once every fifteen (15) year outside plant upgrade program possibly a decade ago, will be unlikely to economically justify additional long term infrastructure investments if its high cost loop support is frozen. Arguably, universal service support would not be “sufficient” under this scenario as required by the Communications Act.

To ensure that universal service support is sufficient, Townes suggests that the proposal to freeze high cost loop support should be modified to better accommodate the investment patterns of many small carriers. One alternative would be to only freeze high cost loop support for study areas over 25,000 lines. Since ILECs with fewer than 25,000 lines are the most likely to have a cyclical investment pattern and are less likely to be able to spread out plant upgrades over numerous exchanges, removing such carriers from the frozen support rule would allow them to undertake major upgrades when required with some certainty that the huge infrastructure investment will be recovered. Another alternative would be to allow rate of return carriers at least a seven year transition period after a CETC captures its first customer before high cost loop support is frozen. A transition period of this duration would give the rural ILEC a reasonable opportunity to upgrade its network infrastructure before its HCL is frozen. A third alternative would be to wait until the CETC captures some meaningful percentage of the market before the high cost loop support of the rural ILEC is frozen. Townes recommends a ten percent market share penetration rate be considered. During the period prior to CETCs capturing ten percent of the market, the rural ILEC will be afforded a window of opportunity during which it may upgrade its network infrastructure and see that upgrade reflected in its HCL support prior to the HCL support becoming frozen. Although these alternatives may result in an increase in the

amount of high cost loop support for rural carriers, the Communications Act requires that support be sufficient without regard to the size of the fund.

Townes recommends a further modification if the competitive ETC does not serve the entire study area of the ILEC. In this scenario, consumers may be unable to obtain comparable services from the ILEC as a result of the restriction in universal service support and they may not even have an alternative carrier available. For example, the Commission recently asked for comment on the Arizona Corporation Commission's proposal to define the service area for a wireless carrier consistent with that portion of the carrier's existing cellular service contour, rather than throughout the affected rural telephone companies' study areas.² At a minimum, the Commission should not freeze the ILEC's high cost loop support if the CETC is not required to serve the incumbent's entire study area.

II. Certain Aspects of the Plan Should be Clarified

Townes requests that the Commission clarify two aspects of the RTF plan. First, it is not clear from the RTF recommendation if the "safety net" support applies to both ILECs with and without a competitive ETC in their study area. Townes believes that the safety net should apply regardless of whether there is a competitive ETC present and requests that the Commission so clarify. However, even if the safety net is available to ILECs that face a competitive ETC, it will not, on its own, be enough to ensure sufficient universal service support because the "safety net" limits supplemental universal service support recovery to fifty percent (50%) of the difference

² *Petition of Smith Bagley, Inc. to Redefine Local Exchange Carrier Service Area Definitions of Navajo Communications Company, Citizens Communications Company of the White Mountains and Century Tel of the Southwest, Inc. Within the State of Arizona as Set Forth in Part 36 of the Commission's Rules*, Public Notice DA 01-409, CC Docket No. 96-45, released February 15, 2001.

between capped and uncapped support levels and it only covers five years even though the economic life of most outside plant infrastructure investment is 15 to 20 years. Accordingly, even with this clarification, the Commission should still adopt one of the alternatives discussed in the preceding section rather than permit HCL to be frozen if a CETC only captures one customer.

Secondly, if the commission should choose not to modify the high cost loop support as discussed above, Townes requests that the Commission clarify that only high cost loop support is frozen when a competitive ETC captures its first customer and not local switching support or long term support.

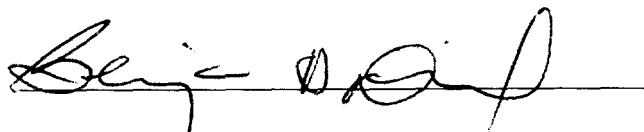
III. Conclusion

Based on the foregoing, Townes respectfully requests that the Commission adopt the recommendations contained herein.

Respectfully submitted,

TOWNES TELECOMMUNICATIONS, INC.

By:



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Dated: February 26, 2001

CERTIFICATE OF SERVICE

I, Michael B. Adams, Jr., hereby certify that I am an attorney with the law firm of Blooston, Mordkofsky, Dickens, Duffy & Prendergast, and that a copy of the foregoing **Comments of Townes Telecommunications, Inc.** concerning the Recommended Decision of the Rural Task Force to be served by first class mail or hand delivery this 26th day of February, 2001, to the persons listed below.

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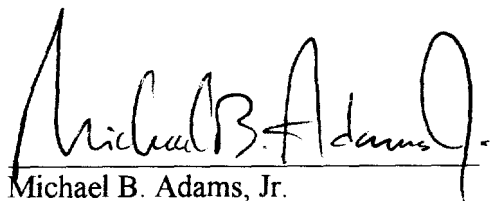
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